

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

DHADIALLA *et al.*

Appl. No.: 09/965,697

Filed: September 27, 2001

For: **Multiple Inducible Gene  
Regulation System**

Confirmation No.: 4412

Art Unit: 1647

Examiner: Shafer, Shulamith H.

Atty. Docket: 2584.0270002/RWE/GER

**Fifth Supplemental Information Disclosure Statement  
under 37 C.F.R. § 1.97(b)**

*Mail Stop R.C.E.*

Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450

Sir:

Listed on accompanying IDS Forms, PTO/SB/08A and PTO/SB/08B, are documents that may be considered material to the patentability of this application as defined in 37 C.F.R. §1.56, and in compliance with the duty of disclosure requirements of 37 C.F.R. §§ 1.97 and 1.98. The material presented on this Fifth Supplemental Information Disclosure Statement is a continuation of the material in Applicants' Fourth Supplemental Information Disclosure Statement filed on March 7, 2008 in connection with the above-captioned application.

Copies of documents **NPL1** to **NPL9** are provided. However, in accordance with 37 C.F.R. § 1.98(a)(2), a copy of the U.S. patent applications cited on the attached Form PTO/SB/08A, documents **US1** to **US11**, are not submitted. In addition, Copies of documents **NPL10** to **NPL23** are not provided, in accordance with the U.S. Patent and Trademark Office OG notice of October 19, 2004, which states: "the requirement in 37 C.F.R. § 1.98(a)(2)(iii) for a legible copy of the specification, including the claims, and drawings of each cited pending U.S. patent application (or portion of the application which caused it to be listed) is *sua sponte* waived where the cited pending application is stored in the USPTO's IFW system."

In accordance with the Federal Circuit decision in *Dayco Prods., Inc. v. Total Containment, Inc.* 329 F.3d 1358 (Fed. Cir. 2003), Applicants submit herewith an Office Action issued in a U.S. patent application, which is directed to related technical subject matter:

the related co-pending U.S. Non-Provisional Appl. No. 09/965,703 as documents **NPL1** to **NPL3**;

the related co-pending U.S. Non-Provisional Appl. No. 10/468,193 as document **NPL4**;

the related co-pending U.S. Non-Provisional Appl. No. 10/468,199 as documents **NPL5** to **NPL7**;

the related co-pending U.S. Non-Provisional Appl. No. 11/118,855 as document **NPL8**; and

the related co-pending U.S. Non-Provisional Appl. No. 11/677,968 as document **NPL9**.

The Examiner's attention is directed to the following co-pending U.S. Patent Applications, which are directed to related technical subject matter:

U.S. Non-Provisional Patent Application No. 10/468,199, inventors Kapitskaya, *et al.*, filed December 17, 2003, listed as document **NPL10**, and published as US 2004/0096942 A1, listed as **US2**;

U.S. Non-Provisional Patent Application No. 11/118,855, inventors Palli, *et al.*, filed April 28, 2005, listed as document **NPL11**, and published as US 2005/0266457 A1, listed as **US3**;

U.S. Non-Provisional Patent Application No. 10/468,193, inventors Palli, *et al.*, filed December 17, 2003, listed as document **NPL12**, and published as US 2006/0100416 A1, listed as **US4**;

U.S. Non-Provisional Patent Application No. 11/677,968, inventors Palli, *et al.*, filed February 22, 2007, listed as document **NPL13**, and published as US 2007/0161086 A1, listed as **US5**;

U.S. Non-Provisional Patent Application No. 11/841,529, inventors Palli, *et al.*, filed August 20, 2007, listed as document **NPL14**, and published as US 2007/0300313 A1, listed as **US6**;

U.S. Non-Provisional Patent Application No. 11/841,495, inventors Palli, *et al.*, filed August 20, 2007, listed as document **NPL15**, and published as 2008/0115237 A1, listed as **US7**;

U.S. Non-Provisional Patent Application No. 11/841,464, inventors Palli, *et al.*, filed August 20, 2007, listed as document **NPL16**, and published as US 2008/0145935 A1, listed as **US8**;

U.S. Non-Provisional Patent Application No. 11/841,597, inventors Kapitskaya, *et al.*, filed August 20, 2007, listed as document **NPL17**, and published as US 2008/0176280 A1, listed as **US9**;

U.S. Non-Provisional Patent Application No. 11/841,631, inventors Palli, *et al.*, filed August 20, 2007, listed as document **NPL18**, and published as US 2008/0216184 A1, listed as **US10**;

U.S. Non-Provisional Patent Application No. 10/468,200, inventors Palli, *et al.*, filed August 15, 2003, listed as document **NPL19** (Not Yet Published);

U.S. Non-Provisional Patent Application No. 10/468,192, inventors Palli, *et al.*, filed August 15, 2003, listed as document **NPL20** (Not Yet Published);

U.S. Non-Provisional Patent Application No. 11/841,644, inventors Palli, *et al.*, filed August 20, 2007, listed as document **NPL21** (Not Yet Published);

U.S. Non-Provisional Patent Application No. 11/841,648, inventors Kapitskava, *et al.*, filed August 24, 2007, listed as document **NPL22** (Not Yet Published); and

U.S. Non-Provisional Patent Application No. 11/841,325, inventors Dhadialla, *et al.*, filed August 20, 2007, listed as document **NPL23**, and published as US 2008/0235816, listed as **US10**.

The identification of the above-mentioned U.S. Patent Applications and Office Actions is not to be construed as a waiver of secrecy as to those applications now or upon issuance of the present application as a patent. The Examiner is respectfully requested to consider the cited applications and the art cited therein during examination.

Where the publication date of a listed document does not provide a month of publication, the year of publication of the listed document is sufficiently earlier than the effective U.S. filing date and any foreign priority date so that the month of publication is not in issue. Applicants have listed publication dates on the attached IDS Forms based on information presently available to the undersigned. However, the listed publication dates should not be construed as an admission that the information was actually published on the date indicated.

Applicants reserve the right to establish the patentability of the claimed invention over any of the information provided herewith, and/or to prove that this information may not be prior art, and/or to prove that this information may not be enabling for the teachings purportedly offered.

This statement should not be construed as a representation that a search has been made, or that information more material to the examination of the present patent application does not exist. The Examiner is specifically requested not to rely solely on the material submitted herewith.

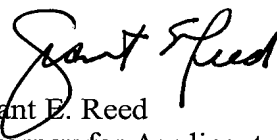
This Information Disclosure Statement is being filed before the mailing of a first Office Action after the filing of a request for continued examination under 37 C.F.R. § 1.114. No statement or fee is required.

It is respectfully requested that the Examiner initial and return a copy of the enclosed IDS Forms, and indicate in the official file wrapper of this patent application that the documents have been considered.

The U.S. Patent and Trademark Office is hereby authorized to charge any fee deficiency, or credit any overpayment, to our Deposit Account No. 19-0036.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.



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